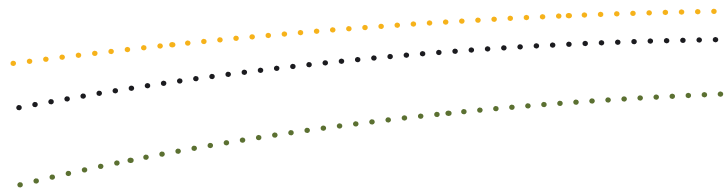




Australian Government

Department of Sustainability, Environment,
Water, Population and Communities



NATIONAL ENVIRONMENT LAW

THE BASICS—ENVIRONMENTAL IMPACT ASSESSMENTS AND APPROVALS OF PROJECTS

This fact sheet aims to provide a basic overview of the federal environmental assessment process as it relates to projects. It should not be used to determine whether an activity requires assessment under national environment law. For more detailed information about referring activities to the department, go to www.environment.gov.au/epbc/publications/epbc-act-fact-sheet.html

What is national environment law?

Australia's main national environment law is the *Environment Protection and Biodiversity Conservation Act 1999* or EPBC Act.

This legislation is designed to protect and manage matters that are nationally significant.

The nine matters of national environmental significance (MNES) are:

- world heritage properties
- national heritage places
- wetlands of international importance (often called 'Ramsar' wetlands after the international treaty under which such wetlands are listed)
- nationally threatened species and ecological communities
- migratory species
- Commonwealth marine areas
- the Great Barrier Reef Marine Park
- nuclear actions (including uranium mining)
- a water resource, in relation to coal seam gas development and large coal mining development.

While all levels of government regulate activities to protect the environment, the federal government's role is specifically focused on protecting these matters.

The whole of the environment (not just the above matters) must be considered when activities take place within the Great Barrier Reef Marine Park, on Commonwealth land or in Commonwealth marine areas, are carried out by Commonwealth agencies, or are nuclear actions.





Who does this legislation affect?

The legislation applies to anyone whose activity is likely to have a significant impact on the nationally protected matters.

For example, land owners, developers, farmers, mining companies, councils and state, territory and Commonwealth agencies are all groups that may need to submit ('refer') their project proposal to the federal environment minister to see whether their activity needs to undergo a federal assessment process.

Examples of project proposals submitted for assessment include clearing or developing land (residential and commercial), mining activities and port development activities.

There are policy statements on the department's website to help guide people on whether their activities' impacts are likely to be significant under the legislation.

How does the assessment process work?

When an activity is referred to the federal environment department, the details of the proposal are looked at to see whether or not it will have a significant impact on nationally protected matters.

All referrals to the department are published on the website to give the public an opportunity to provide comment.

The minister or a departmental delegate will then decide whether or not the activity will need to be further assessed—this is the 'referral decision'.

A referral decision will be one of the following:

Controlled action: this means that a significant impact on a nationally protected matter is likely, and the activity needs to undergo federal assessment. A method of assessment will then be chosen, which will vary depending on the scale and complexity of the activity.

Not controlled action, particular manner: this means the activity does not need to be further assessed but must be carried out in the manner described in the decision.

Not controlled action: this means the activity does not need further assessment because it is not likely to have a significant impact on nationally protected matters.

Action clearly unacceptable: this means the activity cannot proceed because it is clear it will have an unacceptable impact on nationally protected matters. This is essentially a decision to refuse approval for the project.

Activities may also need to be assessed under state and local government legislation. It is always best for people to check with the relevant state and local agencies if they are unsure.



The role of the federal environment minister in environmental assessments

The minister's key decision-making role with federal environmental assessments is to ensure that matters covered by national environment law are protected. When making a decision, the minister cannot consider matters that fall outside this federal legislation.

State and local government approvals might cover different matters from those protected by national environment law under their relevant legislation, so an activity may need approval from all three levels of government.

The federal environment minister cannot intervene in matters that fall outside national environment law. The department works with its state and territory counterparts to ensure information is shared and to align assessment processes where possible.

More information

For more information go to www.environment.gov.au/epbc, email ciu@environment.gov.au or call 1800 803 772.

Disclaimer

The views and opinions contained in this document are not necessarily those of the Australian Government. The contents of this document have been compiled using a range of source materials and while reasonable care has been taken in its compilation, the Australian Government does not accept responsibility for the accuracy or completeness of the contents of this document and shall not be liable for any loss or damage that may be occasioned directly or indirectly through the use of or reliance on the contents of the document.

© Commonwealth of Australia 2013

This work is copyright. You may download, display, print and reproduce this material in unaltered form only (retaining this notice) for your personal, non-commercial use or use within your organisation. Apart from any use as permitted under the *Copyright Act 1968*, all other rights are reserved. Requests and inquiries concerning reproduction and rights should be addressed to Commonwealth Copyright Administration, Attorney General's Department, Robert Garran Offices, National Circuit, Barton ACT 2600 or posted at www.ag.gov.au/cca

BIO116 0713